

PATENT  
Customer No. 22,852  
Attorney Docket No. 08442.0002-04000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Joseph C. CAUTHEN ) Group Art Unit: 3738  
Application No.: 10/085,040 ) Examiner: David J. Isabella  
Filed: March 1, 2002 ) Confirmation No.: 8078  
For: INTERVERTEBRAL DISC )  
ANNULUS STENT )

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**SUBSTANCE OF INTERVIEW**

Applicant thanks the Examiner for the personal interview of May 21, 2008.

Further to that interview, Applicant submits the requisite statement of the substance of the interview. An Interview Summary has not yet been issued.

During the interview, Applicant's representatives Eric Raciti and Elizabeth Burke discussed the Reply filed on September 6, 2007. Applicant's representatives explained to Examiner Isabella that none of the references cited disclose or suggest "a fixation element that passes into or through said tissue surrounding said aperture," as required by claim 102. Specifically, Applicant's representatives discussed with Examiner Isabella the prior art rejections of the pending claims under 35 U.S.C. § 102(b). Applicant's representatives pointed out that neither Nash reference discloses a fixation element and, even if the suture could be construed as a fixation element, which Applicant

denies, it remains within the aperture rather than passing into or through tissue surrounding the aperture. Applicant's representatives also pointed out that the Montgomery reference does not disclose a material capable of tissue ingrowth and further teaches against the use of such a material. The Examiner stated that he would take these arguments under advisement.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Date: June 20, 2008

By:   
Elizabeth M. Burke  
Reg. No. 38,758